

Committee on Superior Court

DRAFT MINUTES

Friday, May 6, 2016

Conference Room 119 A/B, Arizona State Courts Building

1501 West Washington Street

Phoenix, AZ 85007

Present (in person): Judge Sally Duncan, Judge Thomas Fink

Present (telephonic): Judge David Mackey, Judge David Cunanan, Judge Richard Gordon, Judge Charles Gurtler, Judge Charles Harrington, Judge Celé Hancock, Toni Hellon, William Klain, Scott Mabery, Judge Paul McMurdie, Judge Samuel Myers, Judge Cathleen Brown Nichols, Ron Overholt, Judge Michala Ruechel, Eric Silverberg, Megan Spielman, Judge Samuel Vederman, Judge Randall Warner

Absent/Excused: William Gibbs, Judge Kenneth Lee, Judge Joseph Welty

Guest: Judge Maria Elena Cruz (telephonically)

Administrative Office of the Courts (AOC): Theresa Barrett, Jerry Landau (telephonic), Kathy Waters (telephonic)

AOC Staff: Kay Radwanski, Sabrina Nash

I. REGULAR BUSINESS

A. Welcome and Opening Remarks. The May 6, 2016, meeting of Committee on Superior Court (COSC) was called to order at 10:01 a.m. by Judge David Mackey, chair.

B. Approval of Minutes from February 5, 2016

The draft minutes from the February 5, 2016, meeting of the COSC were presented for approval.

Motion: William Klain moved to approve the February 5, 2016, minutes as presented.

Seconded: Judge David Cunanan. **Vote:** Unanimous.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Proposed ACJA § 6-115

Kathy Waters, director of the AOC Adult Probation Services Division, presented the proposed adult and juvenile probation services retention and disposition schedules. In 2015,

court records retention schedules in the Arizona Code of Judicial Administration (ACJA) were revised. It had been determined, however, that adult and juvenile probation records retention schedules should be separate because of automated reporting systems and functions. A proposed code section was presented to the Adult and Juvenile Management meetings for discussion and comment and was approved by the Committee on Probation. Ms. Waters asked COSC to recommend approval of the proposal by the Arizona Judicial Council.

Motion: Judge Charles Gurtler moved to recommend adoption of the proposed adult and juvenile probation services retention and disposition schedule for probation records.

Seconded: Eric Silverberg. **Vote:** Unanimous.

B. Update on Mandatory Warrant Forms

Theresa Barrett, AOC Court Services Division, provided COSC members with an update on the Mandatory Warrant Forms Workgroup. In early 2016, the workgroup met twice to discuss further revisions to the new warrant forms that were approved by the Supreme Court in December 2015. The workgroup incorporated changes recommended by stakeholders and provided a two-week period for further review and final comments or recommendations. In March 2016, Patrick Scott, AOC, presented the amended warrant forms to the Arizona Judicial Council and the presiding judges for recommended adoption. The revised warrant forms will take effect July 1, 2016. Mr. Scott is the point of contact for any questions about the warrant forms.

C. Legislative Update

Jerry Landau, AOC Government Affairs Director, informed the committee that the legislature had passed a state budget bill for 2016-17 and had sent it to the governor for his consideration.

Budget appropriations for the Judiciary include \$2.4 million for Adult Probation; \$947,000 to IT for new WAD System software, which is interconnection software that connects the courts with the Supreme Court; and \$3 million for dependency case processing and pass-through money for Maricopa County to use for diversion programs. The legislature swept \$5 million from the Judiciary, including \$3.6 million from juvenile treatment and \$500,000 from CASA.

The budget legislation includes a 3 percent salary adjustment, split over two years at 1.5 percent per year, for all judges. The legislature also has passed HB2537, a bill that will add two more justices to the Supreme Court. The bill has been sent to the governor for his consideration.

Other bills of interest include:

- **HB2154 Failure to Appear; Arrest; Fingerprinting** – This bill requires the booking agency (defined as the county sheriff or municipal law enforcement agency), instead of the arresting authority, to take legible ten-print fingerprints of all persons arrested for specified offenses, including domestic violence. Signed by the governor.
- **HB2260 Foster Care Review Board; Continuation** – Continues the Foster Care Review Board until July 1, 2024, retroactive to July 1, 2016. A few amendments were added to this bill. Ready for the governor.
- **HB2375 Crime Victim’s Rights; Facility Dog** – The court is required to allow a victim who is under age 18 the opportunity to have a “facility dog” accompany the victim while testifying in court. The court may allow victims and witnesses who are 18 years of age or older to use facility dogs. A person seeking the use of a facility dog is required to file a notice with the court that includes specified information. This bill is expected to move out of the House of Representatives today to the Governor’s Office.
- **HB2376 Victim Restitution; Stipulated Amount; Hearings** – Under the authority of the Victims’ Bill of Rights in the Arizona Constitution, the victim or the victim’s attorney has the right to present evidence or information in court proceedings to determine restitution. Signed by the governor.
- **SB1039 Jury Service; Grand Jury** – Upon timely application to the court, a person who has served on a grand jury in Arizona is required to be excused temporarily from service as a juror for four years following the last day of that person’s service on the grand jury. This exception does not apply to a person selected as an alternate grand juror. Ready for the governor.
- **SB1257 Misconduct Involving Weapons; Public Places** – This bill would have allowed a person who possesses a valid concealed weapons permit to carry a concealed weapon in a public establishment or at a public event. The bill died, and its sponsor did not ask for reconsideration.
- **SB1293 Mediation; Confidential Communications; Exception** – The list of communications made during the mediation process that are exempt from confidentiality requirements is expanded to include a disclosure made in a report to a law enforcement officer, the Department of Child Safety or Adult Protective Services by a court-appointed mediator who reasonably believes that a minor or vulnerable adult is or has been a victim of abuse, child abuse, neglect, exploitation, physical injury or other reportable offense. Ready for the governor.
- **SB1296 Guardianship; Proceedings; Ward’s Relationships** – A guardian is required to encourage and allow contact between the ward and other persons who have a significant relationship with the ward. A guardian is authorized to limit, restrict or prohibit contact if the guardian reasonably believes the contact will be detrimental to

the ward's health, safety or welfare. A person who has a significant relationship to the ward or the ward may petition the court for an order compelling the guardian to allow the person to have contact with the ward. A guardian is required to notify specified family members of an adult ward, including anyone who has filed a demand for notice, if the ward is admitted to a hospital for more than three days or if the ward has died. Ready for the governor.

- **SB1297 Paternity; Preliminary Injunction** – In an action to establish legal decision-making and parenting time for a child who is born out of wedlock, the clerk of the court is required to issue a preliminary injunction that is directed to each party to the action if the petitioner has filed one of a list of specified documents. The preliminary injunction must contain specified orders, including that both parties are enjoined from harassing the other party, from removing a child of the parties then residing in the state from the court's jurisdiction, or from removing any child of the parties from existing insurance coverage. The preliminary injunction has the force and effect of an order of the superior court signed by a judge and is enforceable by all remedies made available under the law, including contempt of court. This bill is awaiting a third reading in the House.

Mr. Landau indicated that there will be new leadership in the legislature next year as both the current Speaker of the House and the Senate President are running for Congress. He also noted that the Arizona Supreme Court has issued two new decisions on DUI implied consent. He has met with Arizona Department of Transportation officials, who will review their implied consent affidavit and instructions to law enforcement.

III. OTHER BUSINESS

Good of the Order/Call to the Public. No members of the public were present.

Adjournment: The meeting adjourned at 10:33 a.m.

Next Meeting: Friday, September 9, 2016; 10 a.m.

Arizona State Courts Building, Conference Room 119 A/B